

## **MINUTES**

### **MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON LOCAL GOVERNMENT**

**Call to Order:** By **CHAIRMAN MIKE SPRAGUE**, on March 25, 1999 at 3:20 P.M., in Room 405 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Mike Sprague, Chairman (R)  
Sen. Ken Miller, Vice Chairman (R)  
Sen. John C. Bohlinger (R)  
Sen. Chris Christiaens (D)  
Sen. Dorothy Eck (D)  
Sen. Bill Glaser (R)  
Sen. Duane Grimes (R)  
Sen. Don Hargrove (R)  
Sen. J.D. Lynch (D)  
Sen. Dale Mahlum (R)  
Sen. Jon Tester (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Jodi Pauley, Committee Secretary  
Mary Vandenbosch, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted:  
Executive Action: HB 560

#### **EXECUTIVE ACTION ON HB 560**

**Discussion:**

**SEN. DON HARGROVE** explained amendments HB056002.amv to **HB 560**. **EXHIBIT(1os67a01)** He said if a road is taken by adverse use it

will always be without compensation. He said this amendment is agreeable by all parties and won't affect the bill a great deal.

**Motion/Vote:** SEN. HARGROVE moved that **AMENDMENT HB056002.amv** BE ADOPTED. Motion carried 10-0.

**Motion:** SEN. KEN MILLER moved that **AMENDMENT HB056003.amv** BE ADOPTED. **EXHIBIT**(los67a02)

**Discussion:**

SEN. MILLER discussed the amendments. **EXHIBIT (2)** He said his concern is if the county commissioners took over the road and did no maintenance then the state should have the ability to withhold funds.

SEN. J.D. LYNCH asked what determines "substantial." **Mary Vandenbosch** said it is not seemingly or imaginary.

SEN. DUANE GRIMES said they are distributing the gas tax from the State for road maintenance. If the commissioners decide they don't want to take care of a road they can be challenged. Won't this amendment create a lot of conflict? **John Youngberg, MT Farm Bureau**, said their question is what determines "substantial." The State does not withhold funds, but they have in the past.

CHAIRMAN MIKE SPRAGUE asked if the word "substantial" would have to be adjudicated. **Mary Vandenbosch** said yes it could go to court.

SEN. GRIMES said he has a more substantial base for the maintenance of his road in front of his house than someone else might. It is confusing and difficult to understand and should not be included in this bill.

SEN. MILLER said in the past they have had the ability to withhold funds. If the county misused the funds, this would give them the ability to withhold funds. "Substantial" would be with very good reason. He said he would rather take out that section and leave it as current law.

SEN. LYNCH asked if reasonable would be a better word. **Mary Vandenbosch** said regardless of what word they use, there could still be some adjudication.

SEN. HARGROVE said the phrase itself opens up the door to contributing to the retired attorney's fund.

**SEN. MAHLUM** said perhaps they should take the word out.

**SEN. GRIMES** said county commissioners are elected officials and there could be some problems every time they make a funding decision on funding one road or another.

**Vote:** Motion failed 2-8 with Sen. Lynch and Sen. Miller voting yes.

**Discussion:**

**Mary Vandenbosch** explained HB056001.amv amendments.  
**EXHIBIT** (los67a03)

**Motion:** SEN. LYNCH moved that AMENDMENTS HB056001.amv BE ADOPTED.

**Discussion:**

**Gordon Morris, MT Assoc. of Counties,** said this amendment should read the State Department of Transportation or County Fund. He said amendment #2 he is opposed to. If a road goes into a subdivision it is a public road not a county road. And under this provision the county would not have to survey. If they take out existing public road and put in county, there is nothing left as it is already a county road. He suggested leaving it the same as before.

**SEN. MILLER** said a county road has been defined. And to stay consistent under those definitions a survey is not required.

**Gordon Morris** said the confusion is over public roads. They can have public roads that are not county roads and public roads that are. And what they are talking about here is a public road that is not a county road.

**Substitute Motion:** SEN. LYNCH made a substitute motion TO WITHDRAW THE AMENDMENTS FOR HB056001.amv.

**Motion/Vote:** SEN. GRIMES moved that HB 560 BE CONCURRED IN AS AMENDED. Motion carried 9-2 with Miller and Glaser voting no.

**ADJOURNMENT**

Adjournment: 3:48 P.M.

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SEN. MIKE SPRAGUE, Chairman

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JODI PAULEY, Secretary

MS/JP

**EXHIBIT** (los67aad)